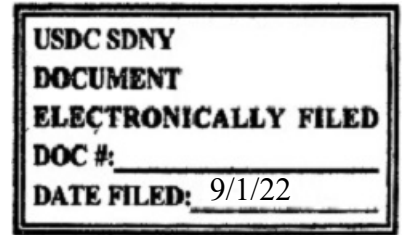


LEVIN-EPSTEIN & ASSOCIATES, P.C.

60 East 42nd Street • Suite 4700 • New York, New York 10165
T: 212.792-0048 • E: Jason@levinepstein.com



Via Electronic Filing

The Honorable Barbara Moses, U.S.M.J.
U.S. District Court, Southern District of New York
500 Pearl Street, Room 740
New York, NY 10007

Re: *Gannon v. Hoon On Co., Inc. et al*
Case No.: 22-cv-01657

MEMO ENDORSED

Dear Honorable Magistrate Judge Moses:

This law firm represents Defendants Hoon On Co., Inc. and Three Guys Deli & Grocery Inc. (together, the “Defendants”) in the above-referenced matter.

Pursuant to Your Honor’s Individual Motion Practice Rules 2(a) and § 6 of Your Honor’s July 12, 2022 Settlement Conference Scheduling Order [Dckt. No. 27] (the “Settlement Conference Order”), this letter respectfully serves as a request to adjourn the Settlement Conference currently scheduled for September 8, 2022 to a date and time set by the Court.

If granted, this request would also necessitate an extension of the parties’ *ex parte* settlement conference statement filing deadline of September 1, 2022 to a date and time set by the Court.

The basis of this request is that Plaintiff Stephen Gannon refused to provide Defendants with a settlement demand, with an accompanying breakdown of damages, in violation of this Court’s clear directives in: (i) § 4(b) of the April 29, 2022 Civil Case Management Plan and Scheduling Order [Dckt. No. 17] (the “Case Management Plan”); and (ii) § 2 of the Settlement Conference Order.

The undersigned counsel attempted to meet-and-confer with Plaintiff’s counsel Adam Douglas Ford (“Attorney Ford”), on nearly a dozen occasions, via email and phone, to consensually resolve this dispute.¹ As of the date of this filing, Attorney Ford has ignored the undersigned’s repeated attempts to seek Plaintiff’s cooperation. Thus, this application is not made on consent of Plaintiff.

As set forth more fully in Defendants’ September 1, 2022 pre-motion conference letter [Dckt. No. 28], Plaintiff’s failure to comply with § 4(b) of the Case Management Plan and § 2 of the Settlement Conference Order necessitates Court intervention pursuant to Fed.R.Civ.P. 16(f), 28 U.S.C. § 1927, and the Court’s inherent authority.

For all of the foregoing reasons, it is respectfully submitted the Court adjourn the September 8, 2022 settlement conference to a date and time set by the Court, pending the

¹ A true and correct compendium of the emails sent on: (i) May 18, 2022; (ii) May 26, 2022; (iii) June 29, 2022; (iv) July 8, 2022; (v) August 16, 2022; (vi) August 18, 2022; and (viii) September 1, 2022 is annexed hereto as **Exhibit “A”**.

outcoming of Defendants' anticipated motion to compel and for sanctions [Dckt. No. 28], or in the alternative, pending Plaintiff's compliance with § 4(b) of the Case Management Plan and § 2 of the Settlement Conference Order.

Thank you, in advance, for your time and attention to this matter.

Respectfully submitted,

LEVIN-EPSTEIN & ASSOCIATES, P.C.

By: /s/ Jason Mizrahi

Jason Mizrahi, Esq.
60 East 42nd Street, Suite 4700
New York, New York 10165
Tel. No.: (212) 792-0048
Email: Jason@levinepstein.com
Attorneys for Defendants

VIA ECF: All Counsel

Encl.

Application GRANTED to the extent that the settlement conference scheduled for September 8, 2022 is ADJOURNED *sine die*. It is hereby ORDERED that plaintiff shall SHOW CAUSE in writing, no later than September 8, 2022, why he should not be sanctioned pursuant to Rule 16(f)(1)(C) and/or the Court's inherent authority for failing to comply with the Order Scheduling Settlement Conference issued on July 12, 2022. SO ORDERED.



Barbara Moses
United States Magistrate Judge
September 1, 2022